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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/685,610	10/11/2000	Betsy Johnson	53394.000444	5256

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Hunton & Williams
Suite 1200
1900 K Street N W
Washington, DC 20006-1109

EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/11/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/685,610

Applicant(s)

JOHNSON, BETSY

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 10 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- * 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z. 6) ☐ Other:

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DETAILED ACTION

Specification

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 1-10-03 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Description

2. The abstract of the disclosure is objected to because the abstract is too short, i.e. less than 50 words in length. Correction is required. See MPEP § 608.01(b).
3. Claim 10 would be in better form if "type" were deleted.

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Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bunnelle '864 in view of Heindel et al.

See col. 1, lines 12-13, col. 3, lines 43-57, col. 8, line 55-col. 11, line 20, i.e. specific temperatures, amounts, processes and component compositions as claimed, col. 13, lines 64-67 and col. 14, lines 21-24 of Bunnelle '864. Therefore, the Bunnelle et al reference teaches providing components of an absorbent article and attaching those component portions using a slow crystallizing hot melt adhesive using one of the adhesives as disclosed by Applicant, see page 5, second full paragraph of the instant application; at a temperature as disclosed by Applicant, see claim 5 of the instant application and col. 10, lines 38-39 of Bunnelle; in an amount as disclosed by Applicant, note claim 7 of the instant application and that the dimensions of the target area are not disclosed or claimed and col. 10, lines 44-48 of Bunnelle; by a process as disclosed by Applicant, see claim 6 and col. 10, lines 60-65 of Bunnelle; and components having the same composition as disclosed by Applicant, see cited portions supra of Bunnelle and pages 6-8 of the instant application. Applicant claims 1) one of the components being a mechanical fastener and one of the components being the remainder of the absorbent article and 2) a specific bond static shear strength, neither of which Bunnelle explicitly sets forth. With regard to 1), see, however,

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Heindel et al, Figures 1 and 8 and col. 4, line 15-col. 7, lines 21, col. 7, lines 56 et seq and col. 11, lines 63-64, i.e. a component of a conventional disposable article attached by hot melt adhesive is a mechanical fastener which fastener is a hook and loop fastener of 1 inch sq area and an ear tab including a laminate structure including elastomer and film substrates. To employ a mechanical fastener as taught by Heindel et al as a component of the Bunnelle article and attached by the adhesive and method thereof would be obvious to one of ordinary skill in the art in view of the recognition that such is a component of a disposable diaper attached to the remainder thereof by a hot melt adhesive and the desirability of Bunnelle to attach disposable article components by a hot melt adhesive. With regard to 2), since the prior art combination teaches attaching a mechanical fastener under the same conditions as disclosed such would necessarily and inevitably result in a bond static shear strength as claimed when tested as disclosed. Note graphs of Bunnelle et al.

Response to Amendment

6. Applicant's remarks on pages 7-9 with regard to the informalities have been noted but are either deemed moot in that the issued discussed has not been reraised or deemed nonpersuasive for the reason set forth supra.

Applicant's remarks with regard to the prior art rejection have been considered but are deemed nonpersuasive. Applicant traverses the rejection on the basis that Bunnelle et al only teaches bonds between nonload bearing parts whereas the invention, i.e. a fastener, is load

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bearing, i.e. bonds for latter need to be stronger than for the former. However, such argument is not persuasive because Bunnelle et al teaches providing bonds between, e.g. elastic bands and elements and any structural component of the disposable diaper. Elastic bands and elements are load bearing parts. Applicant's attention is directed to, e.g., PCT' 249, which shows it was known in the art that elastic side panels, i.e. elastic bands and elements, as well as fasteners are required to function at body temperature under high peel stress and/or high shear stress for long periods of time and the bond strengths deemed acceptable, see page 2, lines 6-10 and page 6, lines 9-13 thereof. Thus Bunnelle et al does recognize adhesive be formulated to provide the required strength and durability to be used with load bearing parts or members. Furthermore, Bunnelle et al is not only focused on moisture debonding, see col. 1, lines 11-12 thereof.

Therefore regardless of the interpretation one makes of the teachings of Heindel, the combination teaches attaching load bearing parts, i.e. a fastener, to articles with the adhesive of Bunnelle.

Applicant further argues that the combination does not provide adequate data that the adhesive of the prior art would provide the claimed strengths. However in light of the reasons set forth in the rejection, i.e same adhesive, same temp., etc., and the discussion with regard to Applicant's arguments, there is more than adequate evidence provided by the references that the adhesives of the prior art would provide the claimed strengths.

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Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication should be directed to K. M. Reichle at telephone number 703-308-2617. The Examiner's regular work schedule is Monday-Thursday. The Official RightFAX number is 703-308-2617.

K. M. Reichle
KARIN REICHEL
[Stamp]

KMR

July 2, 2003